

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 217.6 and chapter 249J, the Department of Human Services amends Chapter 92, “IowaCare,” Iowa Administrative Code.

Amendments to Chapter 92 add language to include Indian Health Care providers in the IowaCare network to serve IowaCare-eligible Native Americans.

The inclusion of Indian Health Care providers in the IowaCare network for IowaCare-eligible Native Americans is required by the American Recovery and Reinvestment Act of 2009 (PL 111-5), Section 5006(d). Pursuant to the federal requirement, Indian Health Care providers have been allowed to enroll in the IowaCare network to serve Native Americans since November 2012. These amendments revise the Department’s rules to reflect the federally required policy, which allows the estimated 300 IowaCare-eligible Native Americans the option to receive care from participating Indian Health Care providers as well as from their assigned medical home.

Notice of Intended Action on these amendments was published as **ARC 0637C** in the Iowa Administrative Bulletin on March 6, 2013. The Department received no comments on these amendments. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 8, 2013.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Council on Human Services finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective May 8, 2013. The implementation period can be waived because the amendments confer a benefit on the public. Native Americans who are eligible for IowaCare will be allowed access to participating Indian Health Centers.

These amendments do not provide for waivers in specified situations because the amendments are required by federal law which does not allow for any waiver and because these amendments confer a benefit by allowing for coverage of services provided by Indian Health Care providers. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6 and chapter 249J.

These amendments became effective on May 8, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions of “Indian” and “Indian health care provider” in rule **441—92.1(249A,249J)**:

“*Indian*” means a Native American eligible, as an Indian, to receive health care services from an Indian health care provider as defined in this rule.

“*Indian health care provider*” means a health care program operated by the Indian Health Service of the U.S. Department of Health and Human Services or by an Indian tribe, tribal organization, or urban Indian organization as those terms are defined in 25 U.S.C. § 1603.

ITEM 2. Amend subrule 92.8(1) as follows:

92.8(1) Provider network. Except as provided in subrules 92.8(3) through ~~92.8(6)~~ 92.8(5), IowaCare members shall have medical assistance only for services provided to the member by:

a. to *c.* No change.

d. Any physician, advanced registered nurse practitioner, or physician assistant who is part of a medical institution listed in this subrule. Physician assistants are able to render covered services as auxiliary personnel of a physician pursuant to 441—subrule 78.1(13); or

e. An Indian health care provider enrolled in the IowaCare program, for services provided to Indians.

ITEM 3. Amend paragraph **92.8(3)“c”** as follows:

c. For persons who reside in Cedar, Clinton, Iowa, Johnson, Keokuk, Louisa, Muscatine, Scott, or Washington County, the services listed in this subrule are covered only when provided by the University of Iowa Hospitals and Clinics or when provided by an Indian health care provider to an Indian.

ITEM 4. Amend subrule 92.8(6) as follows:

92.8(6) Medical home. As a condition of participation in the IowaCare program, network providers designated pursuant to subrule 92.8(1) other than Indian health care providers must also qualify as medical homes, pursuant to Iowa Code chapter 135, division XXII.

a. and b. No change.

c. If an IowaCare member resides in a designated county near a designated medical home provider, the department shall assign the member to that provider. If an IowaCare member who is assigned to a medical home and who is not an Indian chooses to go to another provider without a referral from the medical home:

(1) and (2) No change.

d. Subject to subrule 92.8(1), services provided to Indians assigned to a medical home may be covered by the IowaCare program if:

(1) Provided by the assigned medical home or pursuant to a referral by the assigned medical home;

or

(2) Provided by an Indian health care provider enrolled in the IowaCare program or pursuant to a referral by an Indian health care provider enrolled in the IowaCare program.

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